

ASSEMBLY BILL

No. 688

Introduced by Assembly Member Gomez

February 25, 2015

An act to amend Section 23695 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 688, as introduced, Gomez. Corporate income taxes: credits: qualified motion pictures.

The Corporation Tax Law allows various credits against the tax as imposed by that law, including a qualified motion picture credit for taxable years beginning on or after January 1, 2016, to be allocated by the California Film Commission on or after July 1, 2015, and before July 1, 2020. Existing law limits the aggregate amount of these new credits to be allocated in each fiscal year to up to \$330 million, and subject to a computation and ranking of applicants based on the jobs ratio, as defined, requires the California Film Commission to allocate credit amounts subject to specified categories of qualified motion pictures, in an amount equal to 20% or 25%, with an additional credit amount available, as specified, for qualified expenditures for the production of a qualified motion picture in California.

This bill would make a nonsubstantive change to those provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 23695 of the Revenue and Taxation Code
2 is amended to read:

3 23695. (a) (1) For taxable years beginning on or after January
4 1, 2016, there shall be allowed to a qualified taxpayer a credit
5 against the “tax,” as defined in Section 23036, subject to a
6 computation and ranking by the California Film Commission in
7 subdivision (g) and the allocation amount categories described in
8 subdivision (i), in an amount equal to 20 percent or 25 percent,
9 whichever is the applicable credit percentage described in
10 paragraph (4), of the qualified expenditures for the production of
11 a qualified motion picture in California. A credit shall not be
12 allowed under this section for any qualified expenditures for the
13 production of a motion picture in California if a credit has been
14 claimed for those same expenditures under Section 23685.

15 (2) Except as otherwise provided in this section, the credit shall
16 be allowed for the taxable year in which the California Film
17 Commission issues the credit certificate pursuant to subdivision
18 (g) for the qualified motion picture, but in no instance prior to July
19 1, 2016, and shall be for the applicable percentage of all qualified
20 expenditures paid or incurred by the qualified taxpayer in all
21 taxable years for that qualified motion picture.

22 (3) The amount of the credit allowed to a qualified taxpayer
23 shall be limited to the amount specified in the credit certificate
24 issued to the qualified taxpayer by the California Film Commission
25 pursuant to subdivision (g).

26 (4) For purposes of paragraphs (1) and (2), the applicable credit
27 percentage shall be:

28 (A) Twenty percent of the qualified expenditures attributable
29 to the production of a qualified motion picture in California,
30 including, but not limited to, a feature, up to one hundred million
31 dollars (\$100,000,000) in qualified expenditures, or a television
32 series that relocated to California that is in its second or subsequent
33 years of receiving a tax credit allocation pursuant to this section
34 or Section 23685.

35 (B) Twenty-five percent of the qualified expenditures
36 attributable to the production of a qualified motion picture in
37 California where the qualified motion picture is a television series

1 that relocated to California in its first year of receiving a tax credit
2 allocation pursuant to this section.

3 (C) Twenty-five percent of the qualified expenditures, up to ten
4 million dollars (\$10,000,000), attributable to the production of a
5 qualified motion picture that is an independent film.

6 (D) Additional credits shall be allowed to a qualified motion
7 picture whose applicable credit percentage is determined pursuant
8 to subparagraph (A), in an aggregate amount not to exceed 5
9 percent of the qualified expenditures under that subparagraph, as
10 follows:

11 (i) (I) Five percent of qualified expenditures relating to original
12 photography outside the Los Angeles zone.

13 (II) For purposes of this clause:

14 (ia) “Applicable period” means the period that commences with
15 preproduction and ends when original photography concludes. The
16 applicable period includes the time necessary to strike a remote
17 location and return to the Los Angeles zone.

18 (ib) “Los Angeles zone” means the area within a circle 30 miles
19 in radius from Beverly Boulevard and La Cienega Boulevard, Los
20 Angeles, California, and includes Agua Dulce, Castaic, including
21 Lake Castaic, Leo Carillo State Beach, Ontario International
22 Airport, Piru, and Pomona, including the Los Angeles County
23 Fairgrounds. The Metro Goldwyn Mayer, Inc. Conejo Ranch
24 property is within the Los Angeles zone.

25 (ic) “Original photography” includes principal photography and
26 reshooting original footage.

27 (id) “Qualified expenditures relating to original photography
28 outside the Los Angeles zone” means amounts paid or incurred
29 during the applicable period for tangible personal property
30 purchased or leased and used or consumed outside the Los Angeles
31 zone and relating to original photography outside the Los Angeles
32 zone and qualified wages paid for services performed outside the
33 Los Angeles zone and relating to original photography outside the
34 Los Angeles zone.

35 (ii) Five percent of the qualified expenditures relating to music
36 scoring and music track recording by musicians attributable to the
37 production of a qualified motion picture in California.

38 (iii) Five percent of the qualified expenditures relating to
39 qualified visual effects attributable to the production of a qualified
40 motion picture in California.

(b) For *the* purposes of this section, *the following definitions shall apply*:

(1) “Ancillary product” means any article for sale to the public that contains a portion of, or any element of, the qualified motion picture.

(2) “Budget” means an estimate of all expenses paid or incurred during the production period of a qualified motion picture. It shall be the same budget used by the qualified taxpayer and production company for all qualified motion picture purposes.

(3) “Clip use” means a use of any portion of a motion picture, other than the qualified motion picture, used in the qualified motion picture.

(4) “Credit certificate” means the certificate issued by the California Film Commission pursuant to subparagraph (C) of paragraph (3) of subdivision (g).

(5) (A) “Employee fringe benefits” means the amount allowable as a deduction under this part to the qualified taxpayer involved in the production of the qualified motion picture, exclusive of any amounts contributed by employees, for any year during the production period with respect to any of the following:

(i) Employer contributions under any pension, profit-sharing, annuity, or similar plan.

(ii) Employer-provided coverage under any accident or health plan for employees.

(iii) The employer’s cost of life or disability insurance provided to employees.

(B) Any amount treated as wages under clause (i) of subparagraph (A) of paragraph (21) shall not be taken into account under this paragraph.

(6) “Independent film” means a motion picture with a minimum budget of one million dollars (\$1,000,000) that is produced by a company that is not publicly traded and publicly traded companies do not own, directly or indirectly, more than 25 percent of the producing company.

(7) “Jobs ratio” means the amount of qualified wages paid to qualified individuals divided by the amount of tax credit, not including any additional credit allowed pursuant to subparagraph (D) of paragraph (4) of subdivision (a), as computed by the California Film Commission.

1 (8) “Licensing” means any grant of rights to distribute the
2 qualified motion picture, in whole or in part.

3 (9) “New use” means any use of a motion picture in a medium
4 other than the medium for which it was initially created.

5 (10) “Pilot for a new television series” means the initial episode
6 produced for a proposed television series.

7 (11) (A) “Postproduction” means the final activities in a
8 qualified motion picture’s production, including editing, foley
9 recording, automatic dialogue replacement, sound editing, scoring,
10 music track recording by musicians and music editing, beginning
11 and end credits, negative cutting, negative processing and
12 duplication, the addition of sound and visual effects, sound mixing,
13 film-to-tape transfers, encoding, and color correction.

14 (B) “Postproduction” does not include the manufacture or
15 shipping of release prints or their equivalent.

16 (12) “Preproduction” means the process of preparation for actual
17 physical production which begins after a qualified motion picture
18 has received a firm agreement of financial commitment, or is
19 greenlit, with, for example, the establishment of a dedicated
20 production office, the hiring of key crew members, and includes,
21 but is not limited to, activities that include location scouting and
22 execution of contracts with vendors of equipment and stage space.

23 (13) “Principal photography” means the phase of production
24 during which the motion picture is actually shot, as distinguished
25 from preproduction and postproduction.

26 (14) “Production period” means the period beginning with
27 preproduction and ending upon completion of postproduction.

28 (15) “Qualified entity” means a personal service corporation as
29 defined in Section 269A(b)(1) of the Internal Revenue Code, a
30 payroll services corporation, or any entity receiving qualified wages
31 with respect to services performed by a qualified individual.

32 (16) “Qualified expenditures” means amounts paid or incurred
33 for tangible personal property purchased or leased, and used, within
34 this state in the production of a qualified motion picture and
35 payments, including qualified wages, for services performed within
36 this state in the production of a qualified motion picture.

37 (17) (A) “Qualified individual” means any individual who
38 performs services during the production period in an activity related
39 to the production of a qualified motion picture.

(B) “Qualified individual” shall not include either of the following:

(i) Any individual related to the qualified taxpayer as described in subparagraph (A), (B), or (C) of Section 51(i)(1) of the Internal Revenue Code.

(ii) Any 5-percent owner, as defined in Section 416(i)(1)(B) of the Internal Revenue Code, of the qualified taxpayer.

(18) (A) “Qualified motion picture” means a motion picture that is produced for distribution to the general public, regardless of medium, that is one of the following:

(i) A feature with a minimum production budget of one million dollars (\$1,000,000).

(ii) A movie of the week or miniseries with a minimum production budget of five hundred thousand dollars (\$500,000).

(iii) A new television series of episodes longer than 40 minutes each of running time, exclusive of commercials, that is produced in California, with a minimum production budget of one million dollars (\$1,000,000) per episode.

(iv) An independent film.

(v) A television series that relocated to California.

(vi) A pilot for a new television series that is longer than 40 minutes of running time, exclusive of commercials, that is produced in California, and with a minimum production budget of one million dollars (\$1,000,000).

(B) To qualify as a “qualified motion picture,” all of the following conditions shall be satisfied:

(i) At least 75 percent of the principal photography days occur wholly in California or 75 percent of the production budget is incurred for payment for services performed within the state and the purchase or rental of property used within the state.

(ii) Production of the qualified motion picture is completed within 30 months from the date on which the qualified taxpayer’s application is approved by the California Film Commission. For purposes of this section, a qualified motion picture is “completed” when the process of postproduction has been finished.

(iii) The copyright for the motion picture is registered with the United States Copyright Office pursuant to Title 17 of the United States Code.

(iv) Principal photography of the qualified motion picture commences after the date on which the application is approved by

1 the California Film Commission, but no later than 180 days after
2 the date of that approval unless death, disability, or disfigurement
3 of the director or of a principal cast member, an act of God,
4 including, but not limited to, fire, flood, earthquake, storm,
5 hurricane, or other natural disaster, terrorist activities, or
6 government sanction has directly prevented a production's ability
7 to begin principal photography within the prescribed 180-day
8 commencement period.

9 (C) For the purposes of subparagraph (A), in computing the
10 total wages paid or incurred for the production of a qualified
11 motion picture, all amounts paid or incurred by all persons or
12 entities that share in the costs of the qualified motion picture shall
13 be aggregated.

14 (D) "Qualified motion picture" shall not include commercial
15 advertising, music videos, a motion picture produced for private
16 noncommercial use, such as weddings, graduations, or as part of
17 an educational course and made by students, a news program,
18 current events or public events program, talk show, game show,
19 sporting event or activity, awards show, telethon or other
20 production that solicits funds, reality television program, clip-based
21 programming if more than 50 percent of the content is comprised
22 of licensed footage, documentaries, variety programs, daytime
23 dramas, strip shows, one-half hour (air time) episodic television
24 shows, or any production that falls within the recordkeeping
25 requirements of Section 2257 of Title 18 of the United States Code.

26 (19) (A) "Qualified taxpayer" means a taxpayer who has paid
27 or incurred qualified expenditures, participated in the Career
28 Readiness requirement, and has been issued a credit certificate by
29 the California Film Commission pursuant to subdivision (g).

30 (B) (i) In the case of any pass-thru entity, the determination of
31 whether a taxpayer is a qualified taxpayer under this section shall
32 be made at the entity level and any credit under this section is not
33 allowed to the pass-thru entity, but shall be passed through to the
34 partners or shareholders in accordance with applicable provisions
35 of Part 10 (commencing with Section 17001) or Part 11
36 (commencing with Section 23001). For purposes of this paragraph,
37 "pass-thru entity" means any entity taxed as a partnership or "S"
38 corporation.

39 (ii) In the case of an "S" corporation, the credit allowed under
40 this section shall not be used by an "S" corporation as a credit

1 against a tax imposed under Chapter 4.5 (commencing with Section
2 23800) of Part 11 of Division 2.

3 (20) “Qualified visual effects” means visual effects where at
4 least 75 percent or a minimum of ten million dollars (\$10,000,000)
5 of the qualified expenditures for the visual effects is paid or
6 incurred in California.

7 (21) (A) “Qualified wages” means all of the following:

8 (i) Any wages subject to withholding under Division 6
9 (commencing with Section 13000) of the Unemployment Insurance
10 Code that were paid or incurred by any taxpayer involved in the
11 production of a qualified motion picture with respect to a qualified
12 individual for services performed on the qualified motion picture
13 production within this state.

14 (ii) The portion of any employee fringe benefits paid or incurred
15 by any taxpayer involved in the production of the qualified motion
16 picture that are properly allocable to qualified wage amounts
17 described in clauses (i), (iii), and (iv).

18 (iii) Any payments made to a qualified entity for services
19 performed in this state by qualified individuals within the meaning
20 of paragraph (17).

21 (iv) Remuneration paid to an independent contractor who is a
22 qualified individual for services performed within this state by that
23 qualified individual.

24 (B) “Qualified wages” shall not include any of the following:

25 (i) Expenses, including wages, related to new use, reuse, clip
26 use, licensing, secondary markets, or residual compensation, or
27 the creation of any ancillary product, including, but not limited to,
28 a soundtrack album, toy, game, trailer, or teaser.

29 (ii) Expenses, including wages, paid or incurred with respect to
30 acquisition, development, turnaround, or any rights thereto.

31 (iii) Expenses, including wages, related to financing, overhead,
32 marketing, promotion, or distribution of a qualified motion picture.

33 (iv) Expenses, including wages, paid per person per qualified
34 motion picture for writers, directors, music directors, music
35 composers, music supervisors, producers, and performers, other
36 than background actors with no scripted lines.

37 (22) “Residual compensation” means supplemental
38 compensation paid at the time that a motion picture is exhibited
39 through new use, reuse, clip use, or in secondary markets, as
40 distinguished from payments made during production.

1 (23) “Reuse” means any use of a qualified motion picture in the
2 same medium for which it was created, following the initial use
3 in that medium.

4 (24) “Secondary markets” means media in which a qualified
5 motion picture is exhibited following the initial media in which it
6 is exhibited.

7 (25) “Television series that relocated to California” means a
8 television series, without regard to episode length or initial media
9 exhibition, with a minimum production budget of one million
10 dollars (\$1,000,000) per episode, that filmed its most recent season
11 outside of California or has filmed all seasons outside of California
12 and for which the taxpayer certifies that the credit provided
13 pursuant to this section is the primary reason for relocating to
14 California.

15 (26) “Visual effects” means the creation, alteration, or
16 enhancement of images that cannot be captured on a set or location
17 during live action photography and therefore is accomplished in
18 postproduction. It includes, but is not limited to, matte paintings,
19 animation, set extensions, computer-generated objects, characters
20 and environments, compositing (combining two or more elements
21 in a final image), and wire removals. “Visual effects” does not
22 include fully animated projects, whether created by traditional or
23 digital means.

24 (c) (1) Notwithstanding subdivision (i) of Section 23036, in
25 the case where the credit allowed by this section exceeds the
26 taxpayer’s tax liability computed under this part, a qualified
27 taxpayer may elect to assign any portion of the credit allowed
28 under this section to one or more affiliated corporations for each
29 taxable year in which the credit is allowed. For purposes of this
30 subdivision, “affiliated corporation” has the meaning provided in
31 subdivision (b) of Section 25110, as that section was amended by
32 Chapter 881 of the Statutes of 1993, as of the last day of the taxable
33 year in which the credit is allowed, except that “100 percent” is
34 substituted for “more than 50 percent” wherever it appears in the
35 section, and “voting common stock” is substituted for “voting
36 stock” wherever it appears in the section.

37 (2) The election provided in paragraph (1):

38 (A) May be based on any method selected by the qualified
39 taxpayer that originally receives the credit.

1 (B) Shall be irrevocable for the taxable year the credit is allowed,
2 once made.

3 (C) May be changed for any subsequent taxable year if the
4 election to make the assignment is expressly shown on each of the
5 returns of the qualified taxpayer and the qualified taxpayer's
6 affiliated corporations that assign and receive the credits.

7 (D) Shall be reported to the Franchise Tax Board, in the form
8 and manner specified by the Franchise Tax Board, along with all
9 required information regarding the assignment of the credit,
10 including the corporation number, the federal employer
11 identification number, or other taxpayer identification number of
12 the assignee, and the amount of the credit assigned.

13 (3) (A) Notwithstanding any other law, a qualified taxpayer
14 may sell any credit allowed under this section that is attributable
15 to an independent film, as defined in paragraph (6) of subdivision
16 (b), to an unrelated party.

17 (B) The qualified taxpayer shall report to the Franchise Tax
18 Board prior to the sale of the credit, in the form and manner
19 specified by the Franchise Tax Board, all required information
20 regarding the purchase and sale of the credit, including the social
21 security or other taxpayer identification number of the unrelated
22 party to whom the credit has been sold, the face amount of the
23 credit sold, and the amount of consideration received by the
24 qualified taxpayer for the sale of the credit.

25 (4) In the case where the credit allowed under this section
26 exceeds the "tax," the excess credit may be carried over to reduce
27 the "tax" in the following taxable year, and succeeding five taxable
28 years, if necessary, until the credit has been exhausted.

29 (5) A credit shall not be sold pursuant to this subdivision to
30 more than one taxpayer, nor may the credit be resold by the
31 unrelated party to another taxpayer or other party.

32 (6) A party that has been assigned or acquired tax credits under
33 this subdivision shall be subject to the requirements of this section.

34 (7) In no event may a qualified taxpayer assign or sell any tax
35 credit to the extent the tax credit allowed by this section is claimed
36 on any tax return of the qualified taxpayer.

37 (8) In the event that both the taxpayer originally allocated a
38 credit under this section by the California Film Commission and
39 a taxpayer to whom the credit has been sold both claim the same
40 amount of credit on their tax returns, the Franchise Tax Board may

1 disallow the credit of either taxpayer, so long as the statute of
2 limitations upon assessment remains open.

3 (9) Chapter 3.5 (commencing with Section 11340) of Part 1 of
4 Division 3 of Title 2 of the Government Code does not apply to
5 any standard, criterion, procedure, determination, rule, notice, or
6 guideline established or issued by the Franchise Tax Board
7 pursuant to this subdivision.

8 (10) Subdivision (i) of Section 23036 shall not apply to any
9 credit sold pursuant to this subdivision.

10 (11) For purposes of this subdivision:

11 (A) An affiliated corporation or corporations that are assigned
12 a credit pursuant to paragraph (1) shall be treated as a qualified
13 taxpayer pursuant to paragraph (1) of subdivision (a).

14 (B) The unrelated party or parties that purchase a credit pursuant
15 to paragraphs (3) to (10), inclusive, shall be treated as a qualified
16 taxpayer pursuant to paragraph (1) of subdivision (a).

17 (d) (1) No credit shall be allowed pursuant to this section unless
18 the qualified taxpayer provides the following to the California
19 Film Commission:

20 (A) Identification of each qualified individual.

21 (B) The specific start and end dates of production.

22 (C) The total wages paid.

23 (D) The total amount of qualified wages paid to qualified
24 individuals.

25 (E) The copyright registration number, as reflected on the
26 certificate of registration issued under the authority of Section 410
27 of Title 17 of the United States Code, relating to registration of
28 claim and issuance of certificate. The registration number shall be
29 provided on the return claiming the credit.

30 (F) The total amounts paid or incurred to purchase or lease
31 tangible personal property used in the production of a qualified
32 motion picture.

33 (G) Information to substantiate its qualified expenditures.

34 (H) Information required by the California Film Commission
35 under regulations promulgated pursuant to subdivision (g)
36 necessary to verify the amount of credit claimed.

37 (I) Provides documentation verifying completion of the Career
38 Readiness requirement.

39 (2) (A) Based on the information provided in paragraph (1),
40 the California Film Commission shall recompute the jobs ratio

1 previously computed in subdivision (g) and compare this
2 recomputed jobs ratio to the jobs ratio that the qualified taxpayer
3 previously listed on the application submitted pursuant to
4 subdivision (g).

5 (B) (i) If the California Film Commission determines that the
6 jobs ratio has been reduced by more than 10 percent for a qualified
7 motion picture other than an independent film, the California Film
8 Commission shall reduce the amount of credit allowed by an equal
9 percentage, unless the qualified taxpayer demonstrates, and the
10 California Film Commission determines, that reasonable cause
11 exists for the jobs ratio reduction.

12 (ii) If the California Film Commission determines that the jobs
13 ratio has been reduced by more than 20 percent for a qualified
14 motion picture other than an independent film, the California Film
15 Commission shall not accept an application described in
16 subdivision (g) from that qualified taxpayer or any member of the
17 qualified taxpayer's controlled group for a period of not less than
18 one year from the date of that determination, unless the qualified
19 taxpayer demonstrates, and the California Film Commission
20 determines, that reasonable cause exists for the jobs ratio reduction.

21 (C) If the California Film Commission determines that the jobs
22 ratio has been reduced by more than 30 percent for an independent
23 film, the California Film Commission shall reduce the amount of
24 credit allowed by an equal percentage, plus 10 percent of the
25 amount of credit that would otherwise have been allowed, unless
26 the qualified taxpayer demonstrates, and the California Film
27 Commission determines, that reasonable cause exists for the jobs
28 ratio reduction.

29 (D) For the purposes of this paragraph, "reasonable cause"
30 means unforeseen circumstances beyond the control of the qualified
31 taxpayer, such as, but not limited to, the cancellation of a television
32 series prior to the completion of the scheduled number of episodes
33 or other similar circumstances as determined by the California
34 Film Commission in regulations to be adopted pursuant to
35 subdivision (e).

36 (e) (1) (A) Subject to the Administrative Procedure Act
37 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
38 Division 3 of Title 2 of the Government Code), the California Film
39 Commission shall adopt rules and regulations to implement a
40 Career Readiness requirement by which the California Film

1 Commission shall identify training and public service opportunities
2 that may include, but not be limited to, hiring interns, public service
3 announcements, and community outreach and may prescribe rules
4 and regulations to carry out the purposes of this section, including,
5 subparagraph (D) of paragraph (4) of subdivision (a) and clause
6 (iv) of subparagraph (D) of paragraph (2) of subdivision (g), and
7 including any rules and regulations necessary to establish
8 procedures, processes, requirements, application fee structure, and
9 rules identified in or required to implement this section, including
10 credit and logo requirements and credit allocation procedures over
11 multiple fiscal years where the qualified taxpayer is producing a
12 series of features that will be filmed concurrently.

13 (B) Notwithstanding any other law, prior to preparing a notice
14 of proposed action pursuant to Section 11346.4 of the Government
15 Code and prior to making any revision to the proposed regulation
16 other than a change that is nonsubstantial or solely grammatical
17 in nature, the Governor's Office of Business and Economic
18 Development shall first approve the proposed regulation or
19 proposed change to a proposed regulation regarding allocating the
20 credit pursuant to subdivision (i), computing the jobs ratio as
21 described in subdivisions (d) and (g), and defining "reasonable
22 cause" pursuant to subparagraph (E) of paragraph (2) of subdivision
23 (d).

24 (2) (A) Implementation of this section for the 2015–16 fiscal
25 year is deemed an emergency and necessary for the immediate
26 preservation of the public peace, health, and safety, or general
27 welfare and, therefore, the California Film Commission is hereby
28 authorized to adopt emergency regulations to implement this
29 section during the 2015–16 fiscal year in accordance with the
30 rulemaking provisions of the Administrative Procedure Act
31 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
32 Division 3 of Title 2 of the Government Code).

33 (B) Nothing in this paragraph shall be construed to require the
34 Governor's Office of Business and Economic Development to
35 approve emergency regulations adopted pursuant to this paragraph.

36 (3) The California Film Commission shall not be required to
37 prepare an economic impact analysis pursuant to the Administrative
38 Procedure Act (Chapter 3.5 (commencing with Section 11340) of
39 Part 1 of Division 3 of Title 2 of the Government Code) with regard
40 to any rules and regulations adopted pursuant to this subdivision.

(f) If the qualified taxpayer fails to provide the copyright registration number as required in subparagraph (E) of paragraph (1) of subdivision (d), the credit shall be disallowed and assessed and collected under Section 19051 until the procedures are satisfied.

(g) For purposes of this section, the California Film Commission shall do the following:

(1) Subject to the requirements of subparagraphs (A) through (E), inclusive, of paragraph (2), on or after July 1, 2015, and before July 1, 2016, in one or more allocation periods per fiscal year, allocate tax credits to applicants.

(2) On or after July 1, 2016, and before July 1, 2020, in two or more allocation periods per fiscal year, allocate tax credits to applicants.

(A) Establish a procedure for applicants to file with the California Film Commission a written application, on a form jointly prescribed by the California Film Commission and the Franchise Tax Board for the allocation of the tax credit. The application shall include, but not be limited to, the following information:

(i) The budget for the motion picture production.

(ii) The number of production days.

(iii) A financing plan for the production.

(iv) The diversity of the workforce employed by the applicant, including, but not limited to, the ethnic and racial makeup of the individuals employed by the applicant during the production of the qualified motion picture, to the extent possible.

(v) All members of a combined reporting group, if known at the time of the application.

(vi) Financial information, if available, including, but not limited to, the most recently produced balance sheets, annual statements of profits and losses, audited or unaudited financial statements, summary budget projections or results, or the functional equivalent of these documents of a partnership or owner of a single member limited liability company that is disregarded pursuant to Section 23038. The information provided pursuant to this clause shall be confidential and shall not be subject to public disclosure.

(vii) The names of all partners in a partnership not publicly traded or the names of all members of a limited liability company classified as a partnership not publicly traded for California income tax purposes that have a financial interest in the applicant's

1 qualified motion picture. The information provided pursuant to
2 this clause shall be confidential and shall not be subject to public
3 disclosure.

4 (viii) The amount of qualified wages the applicant expects to
5 pay to qualified individuals.

6 (ix) The amount of tax credit the applicant computes the
7 qualified motion picture will receive, applying the applicable credit
8 percentages described in paragraph (4) of subdivision (a).

9 (x) A statement establishing that the tax credit described in this
10 section is a significant factor in the applicant's choice of location
11 for the qualified motion picture. The statement shall include
12 information about whether the qualified motion picture is at risk
13 of not being filmed or specify the jurisdiction or jurisdictions in
14 which the qualified motion picture will be located in the absence
15 of the tax credit. The statement shall be signed by an officer or
16 executive of the applicant.

17 (xi) Any other information deemed relevant by the California
18 Film Commission or the Franchise Tax Board.

19 (B) Establish criteria, consistent with the requirements of this
20 section, for allocating tax credits.

21 (C) Determine and designate applicants who meet the
22 requirements of this section.

23 (D) (i) For purposes of allocating the credit amounts subject to
24 the categories described in subdivision (i) in any fiscal year, the
25 California Film Commission shall do all of the following:

26 (ii) For each allocation date and for each category, list each
27 applicant from highest to lowest according to the jobs ratio as
28 computed by the California Film Commission.

29 (iii) Subject to the applicable credit percentage, allocate the
30 credit to each applicant according to the highest jobs ratio, working
31 down the list, until the credit amount is exhausted.

32 (iv) Pursuant to regulations adopted pursuant to subdivision (e),
33 the California Film Commission may increase the jobs ratio by up
34 to 25 percent if a qualified motion picture increases economic
35 activity in California according to criteria developed by the
36 California Film Commission that would include, but not be limited
37 to, such factors as, the amount of the production and postproduction
38 spending in California, the utilization of production facilities in
39 California, and other criteria measuring economic impact in
40 California as determined by the Film Commission.

(v) Notwithstanding any other provision, any television series, relocating television series, or any new television series based on a pilot for a new television series that has been approved and issued a credit allocation by the California Film Commission under this section, Section 17053.95, 17053.85, or 23685 shall be issued a credit for each subsequent year, for the life of that television series whenever credits are allocated within a fiscal year.

(E) Subject to the annual cap and the allocation credit amounts based on categories described in subdivision (i), allocate an aggregate amount of credits under this section and Section 17053.95, and allocate any carryover of unallocated credits from prior years and the amount of any credits reduced pursuant to paragraph (2) of subdivision (d).

(3) Certify tax credits allocated to qualified taxpayers.

(A) Establish a verification procedure for the amount of qualified expenditures paid or incurred by the applicant, including, but not limited to, updates to the information in subparagraph (A) of paragraph (2) of subdivision (g).

(B) Establish audit requirements that must be satisfied before a credit certificate may be issued by the California Film Commission.

(C) (i) Establish a procedure for a qualified taxpayer to report to the California Film Commission, prior to the issuance of a credit certificate, the following information:

(I) If readily available, a list of the states, provinces, or other jurisdictions in which any member of the applicant's combined reporting group in the same business unit as the qualified taxpayer that, in the preceding calendar year, has produced a qualified motion picture intended for release in the United States market. For purposes of this clause, "qualified motion picture" shall not include any episodes of a television series that were complete or in production prior to July 1, 2016.

(II) Whether a qualified motion picture described in subclause (I) was awarded any financial incentive by the state, province, or other jurisdiction that was predicated on the performance of primary principal photography or postproduction in that location.

(ii) The California Film Commission may provide that the report required by this subparagraph be filed in a single report provided on a calendar year basis for those qualified taxpayers that receive multiple credit certificates in a calendar year.

1 (D) Issue a credit certificate to a qualified taxpayer upon
2 completion of the qualified motion picture reflecting the credit
3 amount allocated after qualified expenditures have been verified
4 and the jobs ratio computed under this section. The amount of
5 credit shown in the credit certificate shall not exceed the amount
6 of credit allocated to that qualified taxpayer pursuant to this section.

7 (4) Obtain, when possible, the following information from
8 applicants that do not receive an allocation of credit:

9 (A) Whether the qualified motion picture that was the subject
10 of the application was completed.

11 (B) If completed, in which state or foreign jurisdiction was the
12 primary principal photography completed.

13 (C) Whether the applicant received any financial incentives
14 from the state or foreign jurisdiction to make the qualified motion
15 picture in that location.

16 (5) Provide the Legislative Analyst's Office, upon request, any
17 or all application materials or any other materials received from,
18 or submitted by, the applicants, in electronic format when available,
19 including, but not limited to, information provided pursuant to
20 clauses (i) to (xi) inclusive, of subparagraph (A) of paragraph (2).

21 (6) The information provided to the California Film Commission
22 pursuant to this section shall constitute confidential tax information
23 for purposes of Article 2 (commencing with Section 19542) of
24 Chapter 7 of Part 10.2.

25 (h) (1) The California Film Commission shall annually provide
26 the Legislative Analyst's Office, the Franchise Tax Board, and the
27 board with a list of qualified taxpayers and the tax credit amounts
28 allocated to each qualified taxpayer by the California Film
29 Commission. The list shall include the names and taxpayer
30 identification numbers, including taxpayer identification numbers
31 of each partner or shareholder, as applicable, of the qualified
32 taxpayer.

33 (2) (A) Notwithstanding paragraph (6) of subdivision (g), the
34 California Film Commission shall annually post on its Internet
35 Web site and make available for public release the following:

36 (i) A table which includes all of the following information: a
37 list of qualified taxpayers and the tax credit amounts allocated to
38 each qualified taxpayer by the California Film Commission, the
39 number of production days in California the qualified taxpayer
40 represented in its application would occur, the number of California

1 jobs that the qualified taxpayer represented in its application would
2 be directly created by the production, and the total amount of
3 qualified expenditures expected to be spent by the production.

4 (ii) A narrative staff summary describing the production of the
5 qualified taxpayer as well as background information regarding
6 the qualified taxpayer contained in the qualified taxpayer's
7 application for the credit.

8 (B) Nothing in this subdivision shall be construed to make the
9 information submitted by an applicant for a tax credit under this
10 section a public record.

11 (3) The California Film Commission shall provide each city
12 and county in California with an instructional guide that includes,
13 but is not limited to, a review of best practices for facilitating
14 motion picture production in local jurisdictions, resources on
15 hosting and encouraging motion picture production, and the
16 California Film Commissions' Model Film Ordinance. The
17 California Film Commission shall maintain on its Internet Web
18 site a list of initiatives by locality that encourage motion picture
19 production in regions across the state. The list shall be distributed
20 to each approved applicant for the program to highlight local
21 jurisdictions that offer incentives to facilitate film production.

22 (i) (1) (A) The aggregate amount of credits that may be
23 allocated for a fiscal year pursuant to this section and Section
24 17053.95 is the applicable amount described in the following, plus
25 any amount described in subparagraph (B), (C), or (D):

26 (i) Two hundred thirty million dollars (\$230,000,000) in credits
27 for the 2015–16 fiscal year.

28 (ii) Three hundred thirty million dollars (\$330,000,000) in
29 credits for the 2016–17 fiscal year and each fiscal year thereafter,
30 through and including the 2019–20 fiscal year.

31 (B) The unused allocation credit amount, if any, for the
32 preceding fiscal year.

33 (C) The amount of previously allocated credits not certified.

34 (D) The amount of any credits reduced pursuant to paragraph
35 (2) of subdivision (d).

36 (2) (A) Notwithstanding the foregoing, the California Film
37 Commission shall allocate the credit amounts subject to the
38 following categories:

39 (i) Independent films shall be allocated 5 percent of the amount
40 specified in paragraph (1).

1 (ii) Features shall be allocated 35 percent of the amount specified
2 in paragraph (1).

3 (iii) A relocating television series shall be allocated 20 percent
4 of the amount specified in paragraph (1).

5 (iv) A new television series, pilots for a new television series,
6 movies of the week, miniseries, and recurring television series
7 shall be allocated 40 percent of the amount specified in paragraph
8 (1).

9 (B) Within 60 days after the allocation period, any unused
10 amount within a category or categories shall be first reallocated
11 to the category described in clause (iv) of subparagraph (A) and,
12 if any unused amount remains, reallocated to another category or
13 categories with a higher demand as determined by the California
14 Film Commission.

15 (C) Notwithstanding the foregoing, the California Film
16 Commission may increase or decrease an allocation amount in
17 subparagraph (A) by 5 percent, if necessary, due to the jobs ratio,
18 the number of applications, or the allocation credit amounts
19 available by category compared to demand.

20 (D) With respect to a relocating television series issued a credit
21 in a subsequent year pursuant to clause (v) of subparagraph (D)
22 of paragraph (2) of subdivision (g), that subsequent credit amount
23 shall be allowed from the allocation amount described in clause
24 (iv) of subparagraph (A).

25 (3) Any act that reduces the amount that may be allocated
26 pursuant to paragraph (1) constitutes a change in state taxes for
27 the purpose of increasing revenues within the meaning of Section
28 3 of Article XIII A of the California Constitution and may be
29 passed by not less than two-thirds of all Members elected to each
30 of the two houses of the Legislature.

31 (j) The California Film Commission shall have the authority to
32 allocate tax credits in accordance with this section and in
33 accordance with any regulations prescribed pursuant to subdivision
34 (e) upon adoption.